

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STEVEN HOTZE, M.D., *et al.*,

Plaintiffs,

v.

Civil Action No. 4:20-cv-03709

CHRIS HOLLINS, in his official capacity as
Harris County Clerk,

Defendant.

**MOTION BY BENJAMIN L. GINSBERG AND JOSEPH R. STRAUS III
FOR LEAVE TO FILE AMICI CURIAE BRIEF**

Movants Benjamin L. Ginsberg and Joseph R. Straus III respectfully seek leave to file, as *amici curiae*, the attached brief in opposition to Plaintiffs' motion for emergency injunctive relief.

Mr. Ginsberg is an expert in election law who practiced for 38 years before his recent retirement. During that time, he represented numerous political parties, political campaigns, candidates, members of Congress and state legislatures, governors, and others in matters including federal and state campaign finance laws, ethics and gifts rules, pay-to-play laws, election administration, government investigations, redistricting, communications law, and election recounts and contests. He served as counsel to all three Republican national party committees and represented four of the past six Republican presidential nominees (including, through his former law firm, President Trump's 2020 Campaign). He also served as counsel to the Republican Governors Association. Mr. Ginsberg has extensive experience on the state legislative level, including leading Republican redistricting efforts nationwide for many years. He played a central role in the 2000 Florida recount, as well as several dozen Senate, House and state election contests.

Mr. Ginsberg also co-chaired the bipartisan 2013 Presidential Commission on Election Administration.

Mr. Straus is a native of San Antonio, a fifth-generation Texan, and a Republican. He served as Speaker of the Texas House of Representatives from 2009 until 2019, making him the longest-serving Republican Speaker in Texas history. Before serving in the Texas State Legislature, Mr. Straus served in the administrations of President George H. W. Bush and President Ronald Reagan. Before that, he served as Lamar Smith's campaign manager in his first race for Congress. Mr. Straus has also served on the Management Committee of the Bexar County Republican Party, as a precinct chairman, and on numerous campaign committees for federal, state, and local candidates, including as a past Chairman of the Republican Legislative Campaign Committee. He continues to engage with the State Legislative Leaders Foundation and, among other things, serves as a member of the Honorary Board of Directors at the SMU John Goodwin Tower Center for Political Studies. Mr. Straus also continues to provide leadership with the national Republican Party by serving on the Board of Directors of the Republican State Leadership Committee. Over his long career as a candidate, campaign manager, and legislator, Mr. Straus has been both the drafter and the subject of the state's election laws.

Movants share a strong interest in ensuring a free, fair, and secure election, and therefore oppose Plaintiffs' efforts to disenfranchise thousands of Texas voters by retroactively having their chosen method of voting declared illegal. And, considering their experience and expertise, movants respectfully submit that they possess "unique information [and] perspective" that can assist the Court in the sound resolution of this case. *Jin v. Ministry of State Sec.*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (quoting *Ryan v. Commodity Futures Trading Comm'n*, 125 F.3d 1062, 1064 (7th Cir. 1997)); see also *Alex Pacheco v. Freedom Buick GMC Truck, Inc.*, 2011 WL

13234884, at *1 (W.D. Tex. Nov. 1, 2011) (“Although neither the Rules of Civil Procedure nor the Local Rules of this Court prescribe procedures for filing an amicus curiae brief, the district court's inherent authority to allow the participation of amicus under conditions that the court finds appropriate has been recognized in numerous cases.”) (internal citations omitted).

Movants’ proposed brief is attached hereto as Exhibit A. In the brief, Mr. Ginsberg and Mr. Straus argue that Harris County’s drive-thru voting program is permitted by the plain text of Texas state law, that Plaintiffs’ last-minute attempt to disenfranchise thousands of voters violates federal law, and that the so-called “independent state legislature” doctrine actually counsels against a federal court stepping in to rewrite state law, especially after the Texas Supreme Court has already declined to do so. A proposed order is attached as Exhibit B.

Dated: November 1, 2020

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ Mark Trachtenberg

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ATTORNEY FOR AMICI

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on all counsel of record via e-service on November 1, 2020, in accordance with the Federal Rules of Civil Procedure:

/s/ Mark Trachtenberg

Mark Trachtenberg

CERTIFICATE OF CONFERENCE

I hereby certify that I contacted counsel for the parties by electronic mail on November 1, 2020, to seek their respective positions on our request for leave. Defendant Hollins and the Proposed Intervenor-Defendants have given their consent to this filing. I have received no response from Plaintiffs as of this filing.

/s/ Mark Trachtenberg

Mark Trachtenberg